



PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:
Melanie H. Cobb et al.

Serial No.: 09/686,346


Filed: October 10, 2000

For: TAO PROTEIN KINASES AND
METHODS OF USE THEREFOR

Group Art Unit: 1652

Examiner: Maryam Monshipouri

Atty. Dkt. No.: UTSD:1276USC1

CERTIFICATE OF MAILING 37 C.F.R. 1.8	
I hereby certify that this correspondence is being deposited with the U.S. Postal Service with sufficient postage as First Class Mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the date below:	
December 6, 2005	
Date	Robert E. Hanson

APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705(b)

Mail Stop Issue Fee
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Sir:

Applicants request a reconsideration of patent term adjustment under 37 C.F.R. §§1.705(b).

The Determination of Patent Term Adjustment under 35 U.S.C. 154(b) included with the Notice of Allowability and Issue Fee Transmittal dated September 6, 2005 indicates a patent term adjustment of 0 days.

As explained below, Applicants submitted the Issue Fee under 35 U.S.C. §151 and complied with all other outstanding requirements for issuance of the case well earlier than four months prior issue of the case and thus triggered the provisions of 37 C.F.R. §1.702(a)(4). Applicants are therefore requesting a patent term adjustment equal to the length of time from four months after

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compliance with all requirements for issue until the issuance of the case. The basis of entitlement to the adjustment is explained below.

On June 3, 2003, Applicants received Notice of Allowability and Issue Fee Transmittal. Applicants submitted the transmittal and paid the issue fee to the Patent and Trademark Office (PTO) on September 3, 2003. On March 30, 2004, Examiner Monshipouri and Applicants' representative, Mark B. Wilson, held a telephonic interview regarding the sequence listing. On April 5, 2004, an Interview Summary and Substitute Sequence Listing was hand delivered to Examiner Maryam Monshipouri at the PTO which complied with the sequence requirements. On November 16, 2004, Examiner Achutamurthy was apparently unable to locate the earlier filed sequence listing and called Mark Wilson to request a faxed copy of the Substitute Sequence Listing that was hand-delivered to Examiner Monshipouri on April 5, 2004. A copy of the Sequence Listing was faxed on November 17, 2004 to Examiner Monshipouri, together with a request for expedited issuance of the case. On December 20, 2004, Applicants received a Notice of Withdrawal from Issue under 37 C.F.R. 1.313(b) stating that "the above-identified application is withdrawn from issue after payment of the issue fee due to a mistake on the part of the Office".

Applicants subsequently received an Office Communication on February 16, 2005, which stated that "The specification is objected to by the Examiner. The sequence listing is not complying with seq. (sic) rules". Applicants responded to the Office Communication on March 24, 2005 via facsimile noting that the sequence rules were complied with in the submission of April 5, 2004, when the Substitute Sequence Listing was hand delivered to the PTO. At that time Applicants also spoke with Sequence Editor Mark Spencer, who confirmed that the sequence listing submitted April 5, 2004 was in compliance with the rules. On September 6, 2005, a new Notice of Allowance was issued.

In view of the above, Applicants were in compliance with all of the requirements for issuance of the case no later than April 5, 2004. Evidence of the receipt of the sequence listing on that day demonstrating this is attached as **Exhibit A**. Applicants are therefore entitled to a patent term adjustment in an amount corresponding to the period from four months after April 5, 2004, e.g., August 5, 2004, until the date of issuance of this case.

Applicants request a waiver of the petition fee of \$200.00 as the failure to indicate the correct patent term adjustment was due to a PTO error. The Commissioner is nonetheless hereby authorized to deduct any Petition Fee in connection with this paper from Fulbright & Jaworski Deposit Account No.: 50-1212/UTSD:1276USC1 to ensure the responsiveness of the Petition.

Respectfully submitted,



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Date: December 6, 2005